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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,582	07/19/2006	Luis Manuel Da Costa Cabral E Gil	Q92851	3689

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EXAMINER	
CONLEY, SEAN EVERETT	
ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
01/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/566,582	DA COSTA CABRAL E GIL ET AL.	
	Examiner	Art Unit	
	Sean E. Conley	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 January 2006 and 19 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/19/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 3-7 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only, and/or, cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

2. Claims 8-9 are objected to because of the following informalities: Claims 8 and 9 are duplicate claims. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "characterized in that it relates to" in line 4 renders the claim indefinite because it is unclear what is included or excluded by the claim language. Furthermore, it appears as though the claims are a literal translation into English from a foreign document and do not conform with current U.S. practice. The transitional phase “characterized by” in claim 1 is not conventional. The conventional

transitional phrases "comprising", "consisting essentially of" and "consisting of" define the scope of a claim with respect to what unrecited additional components or steps, if any, are excluded from the scope of the claim (see MPEP 2111.03 [R-3]).

In addition, the use of "/" in the phrases "eliminating/reducing", "taste/odour", and reduction/elimination" in claim 1 render the claim indefinite because it is unclear whether or not "/" stands for "or", "and/or", or just "and" thus the scope of the claim cannot be determined.

Regarding claim 2, the term "it" renders the claim indefinite since it cannot be determined what "it" is referring to in the claim.

Claim Interpretation

5. Claim 1 recites the following in lines 8-9: "a radiation does in the range of 15 to 400 kGy, preferably between 90 and 110 kGy and most preferably 100 kGy". The claimed ranges of "preferably between 90 and 110 kGy" and "most preferably 100 kGy" are treated as optional claim limitations. The claimed range of "15 to 400 kGy" is the range given patentable weight for examination.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-2 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumia et al. (U.S. Patent No. 7,192,490 B1).

Lumia et al. disclose that it is well known in the prior art to treat cork stoppers to remove the "corky flavor" or "musty taste" from the cork, wherein the "musty taste" in the cork is caused by trichloroanisole (see col. 1, lines 13 to col. 2, line 5). The known process comprises the step of treating the finished bottle corks with gamma irradiation

(see col. 2, lines 17-34). This process results in a cork product that has been treated with gamma radiation and thus the final cork stopper inherently has a reduced amount of trichloroanisole in the cork material.

Lumia et al. is silent with regards to specific amounts of gamma radiation exposure during the process. However, it would have been obvious to one of ordinary skill in the art, through routine experimentation, and absent a showing of unexpected results, to contact the cork stoppers in the process disclosed Lumia et al. with gamma radiation in the range of 15 to 400 kGy, since Lumia et al. has recognized that the amount of trichloroanisole in cork is a known problem and that it is well known to expose finished cork stoppers to gamma radiation to reduce "corky flavors". Furthermore, it would have been obvious to one of ordinary skill in the art to reduce the amount of trichloroanisole to levels below the detection limits of consumers since Lumia et al. has identified that the "musty taste" and "corky flavor" are objectionable to consumers.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sean E. Conley

January 22, 2008